IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 388 of 2001
With
SPECIAL CIVIL APPLICATION No. 3864 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT
Versus
NARSANGJI JOITAJI THAKORE

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Appearance :

SPECIAL CIVIL APPLICATION No. 388 of 2001
MS MEETA PANCHAL, AGP for Petitioner.
MR PH PATHAK for Respondent.

SPECIAL CIVIL APPLICATION No. 3864 of 2003
MR PH PATHAK for Petitioner.
MS MEETA PANCHAL, AGP for Respondent.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 08/05/2007

ORAL JUDGMENT

1. Both the petitions are directed against the award and order dated 29-1-2000 of Labour Court, Kalol in Reference (LCK) No.203/1989 whereunder the workman is ordered to be reinstated with back wages with effect from 18-3-1997. Learned AGP appearing for the employer-State submitted that necessary evidence was lacking on record for grant of full relief of reinstatement with back wages to the workman. It was, however, conceded that even as the impugned award was sought to be challenged as perverse, the material and evidence before the Labour Court was not submitted before this Court in order to substantiate the plea of perversity.

2. Learned counsel for the workman submitted that the grievance in his petition was restricted to denial of back wages from 1-1-1989 to 18-3-1997, but the workman was prepared to waive his claim for the back wages as a whole, if he were reinstated in service at once.

3. Therefore, in short, there was no substance in the application of the employer State and the petition of the workman was not pressed but, instead, a concession was made to forgo the back wages, if reinstatement was really effected by the employer. Accordingly, Special Civil Application No.388/2001 is allowed to the extent that the impugned award and order shall stand modified so as to deny back wages to the workman, on condition of his being reinstated within a period of one month from today. Rule is made absolute accordingly in that petition and interim relief is vacated with no order as to costs. Special Civil Application No.3864/2003 shall stand dismissed, as not pressed, and Rule therein shall stand discharged with no order as to costs.

(D.H.Waghela, J.)

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